Preserve

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1933

File No 44-38

Previous References (MC)

Serial Nos 1-2

Later References

V

GENERAL AND REVENUE SECRETARIAT

Serial Nos

Part B for Aug 33

SUBJECT

Question whether Mr C V Narasinga Rao who is the Mil Advocate can continue to be a member of the Bangalore City Mil Bd in view of the disability referred to under section 12 (2) (a) of the City Municipalities Regulation 1933

sl 2- To Mil Commr. Bldrs City

L 1183 dated 11/8/33

Stats that Govt consider that Mr C V Narasinga Rao can continue as Mil Advocate during the term of the pres

BC

29/9/33

Confidential.

CITY MUNICIPAL OFFICE
BANGALORE

ME 44-33-1 *Dated,* 15th July *1933*

Dear Mr. Ranga Rao,

The New Mysore City Municipalities Regulation comes into force from 1st August 1933. Under Section 12 (1) (g) of that Regulation "no person who is employed as paid legal practitioner on behalf of the Municipal Council or accepts employment as legal practitioner against the Municipal Council may be a member of such Municipal Council." At present the Municipal Advocate is Mr C.N. Narasinga Rao, B.A ,B L., and he also happens to be a member of the Municipal Council. The term of his appointment is co-extensive with the term of the Municipal Council as reported in this office letter No.G.To.169 dated 18-12-1930 The term of the present Municipal Council has been extended by Government up to 31st Decr. 1933 in their notification No L.8597-8/M1. -- dated the 30th June 1933

Section 12 applies to disqualifications for becoming a Councillor. As Mr. Narasinga Rao is already a Councillor in the existing Council constituted under the Old Regulation and has been appointed for the term of the Council, I doubt if Section 12 may be made applicable to his case

I therefore request that the instructions of Government may kindly be conveyed to me in the matter.

Yours sincerely,

R. Ranga Rao, Esq , B A., B L ,
Chief Secretary to the Govt. of Mysore,
Bangalore.

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Confidential.

3:28
CITY MUNICIPAL OFFICE
BANGALORE

Me 44-33-1 Dated, 15th July 1933

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I therefore request that the instructions of Government may kindly be conveyed to me in the matter.

Yours sincerely,

R. Ranga Rao, Esq., B A., B.L,
Chief Secretary to the Govt of Mysore,
Bangalore.

NOTE—Contn Sheet

extended upto the end of Dec 33, as stated by the Minister. An enquiry has been made as to whether the term of the Council may be extended upto end Dec 33.

Mr. C. N Narasingarao was appointed as the Municipal advocate for existing Council constituted

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L 338

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under the existing Rgn; it is for orders whether his appointment as Taluq Legal practitioner as Councillor should be allowed to continue on the council from 1/8/33, from which date the new City Municipalities Rgn comes into force.

The Law Department may if approved be consulted.

Submitted for orders with reference

Under sub sec(2) (a) of the existing Regulation, a Councillor who becomes subject to any of the Disqualifications mentioned in sub sec (1), during the term for which he has been appointed or elected, shall be debarred from continuing as a Councillor & his office shall become vacant.

Soon after the new Regulation comes into force, Mr Narasinga Rao becomes subject to the disqualification which renders his place on the Council vacant. The saving of the appointment of Councillors under the existing Regulation, made in pursuance of Sec 2 of the new Regulation, does not seem to prevent the operation of the disqualification referred to for favour of orders on the point raised.

(so far as maybe)

29 Law

Attorney; Lawyers & Agents

19/7

Serial No

Under sec 12 (2)(a) of Regulation VII of 1933 if any Councillor, during the term for which he has been elected, is employed as paid legal practitioner on behalf of a Municipal Council or accepts appointment employment as legal practitioner against a Municipal Council, he is disabled from continuing to be a councillor. Since this is a new disability created by Regulation VII of 1933, it is a point for consideration whether it is to be given retrospective effect, so as to cause a disqualification in respect of an employment accepted before the new Regulation comes into force

As pointed out in Maxwell page 391 "no rule of construction is more firmly established than this: that a retrospective operation is not to be given to a statute so as to impair an existing right or obligation, otherwise than as regards matter of procedure, unless that effect cannot be avoided without doing violence to the language of the enactment. If the enactment is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective only".

In this case, the disqualification of a councillor is caused by the act of acceptance of an employment as a legal practitioner

NOTE—Contn Sheet

for or against the Municipal Council.
It is possible to construe the section
as are
as applying only to such acts committed
after the coming into force of the
new Regulation and not to those done
before. If therefore Mr Narasingalas
has been employed as a municipal
advocate before 1st august 1933, and he
is under the contract of employment
to continue to hold that office till
the expiry of the term of the present
Municipal Council, it can be argued
that he incurs no disqualification
to act as a councillor, merely because
he continues to be ~~a~~ a Municipal
Advocate under a contract of employ-
ment entered into before 1st augt 1933.

There is an interesting case
reported in (1894) 1 Queen's Bench 725.
One Mr Nutt was adjudged a Bankrupt
under the Act of 1869. After this and
when he was still undischarged, he was
elected to a school Board. The Act of
1869 did not disqualify him from
being elected. The Bankruptcy Act of
1883 contained a disqualification clause,
which was in the following terms:
"Where a debtor ~~was~~ adjudged
bankrupt he shall be disqualified

General and Revenue Secretariat | File No 338/2 529/1/7 of 193

Serial No

from being a member of a school board" It was held by the Court of Appeal that this applied only to adjudications made after the Act of 1883 came into force and not before and that therefore, Mr Nutt who was adjudged a bankrupt before 1883 could be a member of School Board.

Applying this principle, I think the words "who is employed" in Sec 12 of Regn VII of 1933, has to be construed as referring to employment after 1st August 1933. If the disqualification is for being a legal practitioner on behalf of the Council irrespective of the date of employment, the words should have been "who is a paid legal practitioner on behalf of etc" just as in Sec 12 (1) B (a) where it is "who is a subordinate officer or servant etc".

Asst Secy Edn
With Compts

1884
29/7/33

529/1/33
E

for order.

Chief Secy

ATD 31/7

Please obtain the Legal Advocate's opinion also quickly

29/7/33

NOTE—Contn Sheet

WD 70—GBI M—60 000—13 8 31

File No of 193

General and Revenue Secretariat

U.O. No P99 of 32-33 of 1.8.33.

Forwarded with Compliments to the Govt Advocate for favour of opinion and early return.

BVyasa Rao
for Gen Secy to Govt
1/8/33

29
Law
Dis 83/33-1.
of 2.8.33

Returned with compliments.

No. Dis 14/33-34
of 3.8.33

I am inclined to agree with the opinion of the Assistant Secretary. As laid down in (1894) 1 Q.B. 725, it is a well recognised principle in the construction of Statutes that they operate only on cases and facts which come into existence after the Statutes are passed unless a retrospective effect is clearly intended.

This decision does not seem to have been dissented from in later rulings though Lord Esher M. R. who was one of the Judges in the case did not agree with that view, c.f., also 1896 P.133 (Lane VS. Lane) where this case is distinguished.

In the light of the 1894 decision above referred to it may be held that Mr. C.N. Narasinga Rao is not disqualified under Sec.12 of the Regulation from continuing as a Councillor during the term of the present Council.

GENERAL SECRETARIAT
3- AUG 1933
Fort

Government Advocate.
3.8.33

CSN.

Chief Secy)

4/8/33

Office of the Second Member of Council
3 AUG 1933
No.

In view of the short period of the terms of the Mul C the legal view may be accepted

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Draft Please

9/8

Serial No	
	Draft ordered RMV 11/8 Issue clearance VTM 11/8 (Please send the fair copy to endorse for signature)
2	To the Mc Commr, Bangalore city No L 1183 dated 11-8-33 Informing him that Mr Narasinga Rao can continue as Mc councillor during the term of the present Municipal Council

11/8 AV

WD 70—GBEM—60 000—13 8-3

File No

Appendix F G—1]

SUBJECT

Section Ml
File No 44—33
Serial No 2

No of letter replied to

D.O No L 1183

To

Dear Sir,

General and Revenue Secretariat

( )

the *193*

of issue 11-8-33

ed by M. H.V.R.

With reference to your D.O letter No. 21/33-34 dated 15-7-33 requesting to be informed whether Mr. C. N. Narasinga Rao who is the Ml Advocate can continue to be a member of the Bangalore City Mcl ~~also~~, ~~Dao~~ in view of the disability referred to under section 12(2)(a) ~~12(2)(a)~~ of the ~~Hon'ble~~ City Mcpl. Regulations, ~~of~~ 1933, ~~the~~ ~~abstract as under~~, I am directed to state that Govt consider that Mr Narasinga Rao can ~~be~~ continue as a Ml Councillor during the term of the present Mcl

Your obedient

List of enclosures

Copied by 11/8

Examined by

P H Krishna Rao Dy M.A. 11/8

Ml Commr, Bangalore city

Exhi

No. L 1183

Mi 44-33-2

11th Aug 33.

Dear Sir,

With reference to your D.O. letter No. 21/33-34 dated 15th July, 1933 requesting to be informed whether Mr. C.N. Narasinga Rao who is the Municipal Advocate - can continue to be a member of the Bangalore City Municipal Council in view of the disability referred to - - under section 12 (2) (a) of the City Municipalities Regulation, 1933, I am desired to state that Government consider that Mr. Narasinga Rao can continue as a Municipal Councillor during the term of the present Municipal Council.

Diary

Date

Yours sincerely,

Sign

P.H. Krishna Rao, Esq., B.A.,
Municipal Commissioner, Bangalore City.

W D 1951—GPB—20,000—13-12 13